

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

**Kent D. Branch,**

Plaintiff,

v.

**CSX Transportation, Inc.,**

Defendant.

Case No. 20-cv-00832

Judge Timothy S. Black

**Answer to Plaintiff's Complaint**

**Jury Demand Endorsed Hereon**

Defendant, CSX Transportation, Inc. ("CSXT"), for its Answer to Plaintiff's Complaint, admits, denies, alleges, and otherwise avers as follows:

**FIRST DEFENSE**

**I. Parties, Jurisdiction, and Venue**

1. CSXT denies, for lack of knowledge sufficient to form a belief as to their truth, the allegations and averments contained in this paragraph.

2. CSXT admits, upon information and belief, the allegations and averments contained in this paragraph.

3. CSXT admits that is a common carrier by railroad engaged in the business of operating a railroad in interstate commerce for hire for the purpose of carrying freight in interstate commerce, and that is conducts railroad operations in the State of Ohio.

4. CSXT admits that it employed Plaintiff as a Carman and that a Carman generally performs duties in furtherance of interstate commerce. CSXT denies the remaining allegations and averments contained in this paragraph.

5. This paragraph calls for a legal conclusion to which no response is required; to the extent a response is required, CSXT admits only that it is subject to the Federal Employers' Liability Act ("FELA") and that this Court has subject matter jurisdiction over FELA cases.

## **II. Facts**

6. CSXT admits that it employs Plaintiff as a Carman.

7. CSXT admits Plaintiff was working in Huntington, West Virginia on August 5, 2019; CSXT denies, for lack of knowledge sufficient to form a belief as to their truth, the allegations and averments contained in this paragraph.

8. CSXT denies, for lack of knowledge sufficient to form a belief as to their truth, the allegations and averments contained in this paragraph.

9. CSXT denies, for lack of knowledge sufficient to form a belief as to their truth, the allegations and averments contained in this paragraph.

10. CSXT denies, for lack of knowledge sufficient to form a belief as to their truth, the allegations and averments contained in this paragraph.

11. CSXT denies the allegations and averments contained in this paragraph.

## **III. First Cause of Action**

12. CSXT denies the allegations and averments contained in this paragraph.

13. CSXT denies the allegations and averments contained in this paragraph.

**IV. Second Cause of Action**

14. CSXT denies the allegations and averments contained in this paragraph.

**V. Damages**

15. CSXT denies the allegations and averments contained in this paragraph.

16. This paragraph calls for a legal conclusion or request for relief to which no response is required; to the extent a response is required, CSXT denies the allegations and averments contained in this paragraph.

**VI. Jury Demand**

17. This paragraph calls for a request for relief to which no response is required.

**SECOND DEFENSE**

18. CSXT denies each and every allegation and averment contained in Plaintiff's Complaint that has not been specifically and expressly admitted as true herein.

**THIRD DEFENSE**

19. The damages for which Plaintiff seeks recovery were caused, in whole or in part, by the negligence of Plaintiff, which either precludes or reduces recovery.

**FOURTH DEFENSE**

20. The damages for which Plaintiff seeks recovery were directly and proximately caused by the primary, substantial, independent, superseding and/or intervening acts or negligence and/or misconduct and/or breach of contract,

warranty and/or duty and/or representation and/or violation of statute, ordinance, code, regulation or other provision of law and/or breach of duty and/or failures of persons or parties other than CSXT or for whom CSXT is not legally responsible.

**FIFTH DEFENSE**

21. Plaintiff's claims are precluded, in whole or in part, by federal and/or state law, including but not limited to, the Federal Railroad Safety Act of 1970, and the Railway Labor Act.

**SIXTH DEFENSE**

22. Plaintiff's Complaint fails to state a claim upon which relief may be granted.

**SEVENTH DEFENSE**

23. Plaintiff has failed to join one or more necessary and/or indispensable parties.

**EIGHTH DEFENSE**

24. Plaintiff is not the real party in interest.

**NINTH DEFENSE**

25. Plaintiff has no standing to bring this case.

**TENTH DEFENSE**

26. Plaintiff has failed to mitigate his damages.

**ELEVENTH DEFENSE**

27. CSXT pleads the defenses of accord and satisfaction, res judicata, collateral estoppel, release and/or waiver, and/or laches.

**TWELFTH DEFENSE**

28. CSXT reserves the right to add to its Answer and to rely on all defenses that may hereafter be disclosed through investigation, discovery or otherwise.

WHEREFORE, Defendant, CSX Transportation, Inc., prays that this matter be dismissed against it, and that it recover its costs and attorneys' fees expended herein and all other relief to which it is entitled in this matter.

Dated: November 9, 2020

Respectfully submitted,

**s/James R. Carnes**

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Trial Attorney for Defendant,  
CSX Transportation, Inc.

**JURY DEMAND**

Defendant hereby demands trial by jury.

Respectfully submitted,

**s/James R. Carnes**

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Trial Attorney for Defendant,  
CSX Transportation, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document was filed this 23<sup>rd</sup> day of November 2020, through the Court's Electronic Filing System. Parties will be served, and may obtain copies electronically, through the operation of the Electronic Filing System.

***s/James R. Carnes*** \_\_\_\_\_

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